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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

DANE AYERS,

Plaintiff,

v.

ENVIRO-CLEAN SERVICES, INC.
and WALLED LAKE
CONSOLIDATED SCHOOL
DISTRICT,

Defendants.

Case:2:19-cv-10314
Judge: Murphy, Stephen J.
MJ: Majzoub, Mona K.
Filed: 02-01-2019 At 01:12 PM
CMP DANE AYERS V ENVIRO-CLEAN SERVI
CES INC, ET AL (LG)

Magistrate Judge

Dane Ayers
936 Amenia Street
Wolverine Lake, MI 48390
248-896-2438
Pro Se

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Plaintiff Dane Ayers, pro se, complains against Defendants Enviro-Clean Services, Inc. and Walled Lake Consolidated School District as follows:

INTRODUCTION

1. This is a disability discrimination action brought pursuant to the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq. (“ADA”) and Michigan’s Persons With Disabilities Civil Rights Act (“PWDCRA”)

2. Plaintiff Dane Ayers seeks equitable relief and legal damages to enforce his rights under the ADA and PWDCRA to be free from discrimination in employment on the basis of disability.

PARTIES, JURISDICTION AND VENUE

3. Plaintiff Dane Ayers is an individual residing in Wolverine Lake, in Oakland County, Michigan.

4. Defendant Enviro-Clean Services, Inc. is a Michigan corporation with its principal place of business in Holland, Michigan.

5. Defendant Walled Lake Consolidated School District is a Michigan general powers school district with its principal place of business in the City of Walled Lake, County of Oakland, State of Michigan.

6. This civil action is based upon violations of federal law, specifically the Americans with Disabilities Act, and pendent state law claims under the Michigan Persons With Disabilities Civil Rights Act.

7. This Court has subject matter jurisdiction over Plaintiff's Claims under the Americans With Disabilities Act because those claims arise under federal law.

8. This Court has supplemental jurisdiction over Plaintiff's state law claims because they arise out of the same set of operative facts, such that the state and federal claims form part of the same case and controversy.

9. This Court has personal jurisdiction over Defendants because Defendants reside in and conduct substantial business in Michigan and the events giving rise to this action occurred in the Eastern District of Michigan.

10. Venue is proper in this District because the events giving rise to the claims occurred in this District, and the parties reside in and conduct business in this district.

11. Prior to filing this action, Plaintiff exhausted his administrative remedies by filing a timely charge of discrimination

against Enviro-Clean Services, Inc. with the Equal Employment Opportunity Commission (EEOC).

12. Plaintiff filed his EEOC charge on April 4, 2018. (Exhibit 1- Charge of Discrimination).

13. The EEOC issued a dismissal and notice of right-to-sue as to Plaintiff's charge on November 2, 2018. (Exhibit 2 – Dismissal and Notice of Rights).

14. This action is filed within 90-days of Plaintiff's receipt of the Dismissal and Notice of Rights from the EEOC.

GENERAL ALLEGATIONS

15. Plaintiff Dane Ayers ("Ayers") is a 24-year old man.

16. Ayers is a former student of the Walled Lake Consolidate School District.

17. Ayers is a qualified person with a disability for purposes of the ADA and PWDCRA because he has been diagnosed with autism spectrum disorder ("ASD").

18. ASD is a neurodevelopmental disorder that is characterized by persistent deficits in social communication and social interaction across multiple contexts, including deficits in social reciprocity,

nonverbal communicative behaviors used for social interaction, and skills in developing, maintaining, and understanding relationships.

19. ASD substantially impairs Ayers in the major life activities of cognition, learning, thinking, speaking, social interaction and communicating, among other major life activities.

20. Ayers previously attended Walled Lake Central High School.

21. On June 13, 2017, Ayers visited Walled Lake Central High School because he observed a sign outside the school advertising a hiring process for open jobs.

22. Inside the school, Ayers spoke with an individual who, upon information and belief, was an employee/agent of Defendant Enviro-Clean Services, Inc. ("Enviro-Clean") and/or Defendant Walled Lake Consolidated School District.

23. This person directed Ayers to apply for a janitorial position through the Enviro-Clean website.

24. Ayers applied for an open position using the Enviro-Clean website.

25. Ayers meets all the qualifications for the position and was fully qualified to perform the essential functions of the position, with or without reasonable accommodation.

26. On June 14, 2017, Enviro-Clean, Inc. notified Ayers that he would be interviewed for the job on June 20, 2017.

27. Later that day, a representative of Walled Lake Central High School wrote a letter to Ayers falsely accusing him of trespassing.

28. The letter references a previous “trespassing letter” issued against Ayers on April 15, 2016, when he had entered the school to use a bathroom.

29. The school officials responsible for issuing these letters and for accusing Ayers of trespassing had knowledge of Ayers’s disability because he was a former student of Walled Lake Consolidated School District and they were otherwise personally familiar with Ayers.

30. All representatives of Defendants who interacted with Ayers had knowledge of Ayers’s disability or had reason to know of his disability because the symptoms of his disability are noticeable and readily ascertainable to any reasonable person who interacts with him.

31. Because of the outward symptoms of Ayers's disability, at all relevant times, Defendants regarded and perceived Ayers as disabled.

32. Because of Ayers's disability and record of disability, Defendants engaged in the actions alleged herein based on his record of having a disability for purposes of the ADA and PWDCRA.

33. The Walled Lake school officials responsible for cancelling Ayers's interview with Enviro-Clean and terminating his opportunity for employment with Enviro-Clean include Eric Henderson, Assistant Principal and supervisor of the Autism Spectrum Program at Walled Lake Central High School.

34. Henderson had spoken with the person who discussed potential employment with Ayers.

35. Henderson knew that Ayers was on school property looking for information regarding a job posting outside of the school.

36. Henderson spoke with personnel from Enviro-Clean and told them that Ayers would not be a good fit for the school.

37. Henderson also contacted the police to report Ayers and initiate criminal charges against him for trespassing, despite knowing

that Ayers was disabled and despite knowing that Ayers was on school property looking for information regarding a job posting.

38. On June 15, 2017, deputy officers from the Oakland County Sheriff's Department issued Ayers a citation for trespassing.

39. On June 16, 2017, Enviro-Clean notified Ayers that the job interview had been cancelled.

40. Enviro-Clean cancelled the job interview and denied Ayers the opportunity to obtain employment because representatives of Walled Lake Consolidated School District, with knowledge of Ayers's disability, directed Enviro-Clean to cancel his interview and reject his application for employment.

41. Upon information and belief, Enviro-Clean had open positions available for which Ayers was qualified, and it filled those position with persons who, unlike Ayers, did not have any disability, actual or as perceived Defendants.

42. The actions taken by Defendants against Ayers, including the cancellation of his interview, the denial of employment opportunities with Defendants, and the pressing of criminal charges, were a direct result of Ayers's disability, record of disability, perceived disability,

and/or Defendants' refusal to accommodate or engage in an interactive process to determine reasonable accommodations for Ayers's disability.

43. As a direct result of the foregoing, Ayers has experienced and will continue to experience economic damages, including lost wages and benefits, and other forms of economic and non-economic damages including mental and emotional distress, anguish, and pain and suffering.

COUNT I

VIOLATION OF THE AMERICANS WITH DISABILITIES ACT DISABILITY DISCRIMINATION

PLAINTIFF VS. DEFENDANT ENVIRO-CLEAN SERVICES, INC.

44. Plaintiff incorporates all foregoing allegations by reference as though stated in full herein.

45. The Americans With Disabilities Act (ADA) makes it unlawful for an employer to discriminate against a qualified individual because the individual has a disability, a record of a disability or because the employer perceives or regards the individual as disabled.

46. The ADA further requires employers to provide reasonable accommodations to qualified individuals with disabilities to ensure that they can perform the essential functions of their job, unless providing the

reasonable accommodation would impose an undue hardship on the employer.

47. The ADA further requires employers to engage in a meaningful interactive process with employees with regard to reasonable accommodations.

48. At all relevant times, Enviro-Clean Services, Inc. was an employer for purposes of the ADA.

49. At all relevant times, Ayers was a qualified individual with a disability for purposes of the Act.

50. Ayers is diagnosed with Autism Spectrum Disorder (“ASD”).

51. ASD is a neurodevelopmental disorder that is characterized by persistent deficits in social communication and social interaction across multiple contexts, including deficits in social reciprocity, nonverbal communicative behaviors used for social interaction, and skills in developing, maintaining, and understanding relationships.

52. ASD substantially impairs Ayers in the major life activities of cognition, learning, thinking, speaking, social interaction and communicating, among other major life activities.

53. Defendants were aware of Ayers's disability and record of disability.

54. Defendants perceived and regarded Ayers's as disabled.

55. Ayers was fully qualified for the position he sought with Defendants, with or without reasonable accommodation.

56. Notwithstanding its obligations under the ADA, and in willful violation thereof, Defendant Enviro-Clean discriminated against Ayers because of disability by:

- a. Cancelling his employment interview because of his disability, record of disability or because it perceived Ayers as disabled;
- b. Failing to furnish reasonable accommodations for Ayers's disability;
- c. Failing to engage in a meaningful interactive process to determine how to accommodate Ayers's disability relative to the needs of the position he sought; and
- d. Pressing criminal charges against Ayers because of his disability or perceived disability.

57. Ayers's disability, or Defendants' perception of Ayers's disability, was the but-for cause of these adverse employment actions

58. Ayers's disability or Defendants' perception of his disability had a determinative influence on the outcome of his application for employment.

59. Henderson, with knowledge that Ayers was disabled, or perceiving or regarding Ayers as disabled, acted with a discriminatory bias based on Ayers's actual or perceived disability to cause Enviro-Clean to cancel Ayers's interview and deny Ayers an employment opportunity.

60. Henderson's actions were a proximate cause of the ultimate employment action, thus making Enviro-Clean liable for Henderson's actions.

61. Henderson's discriminatory actions had a direct relation to the ultimate action of cancelling Ayers's interview and denying Ayers employment opportunity with Defendants.

62. But-for these discriminatory actions based on disability, perceived disability, or record of disability, Ayers would have successfully obtained employment with Defendants.

63. As a direct result of the adverse treatment experienced in connection with the foregoing, Ayers has experienced and will continue to experience economic damages, including lost wages and benefits, and other forms of economic and non-economic damages including emotional distress, anguish and pain and suffering.

COUNT II

VIOLATION OF MICHIGAN'S PERSONS WITH DISABILITIES CIVIL RIGHTS ACT DISABILITY DISCRIMINATION

PLAINTIFF VS. DEFENDANTS ENVIRO-CLEAN SERVICES, INC. AND WALLED LAKE CONSOLIDATED SCHOOL DISTRICT

64. Plaintiff incorporates all of the foregoing allegations by reference as though stated in full herein.

65. At all relevant times, Defendants were employers within the terms of Michigan's Persons With Disabilities Civil Rights Act, M.C.L. §37.1101, et seq.

66. Defendants were each employers, or were joint employers, for purposes of the PWDCRA because both Defendants had the power to hire and fire employees, supervised and controlled employee work schedules or conditions of employment, determined the rate and method of payment, and maintained employment records.

67. Ayers was a qualified individual with a disability and/or perceived disability within the meaning of the PWDCRA because he had a disability and/or was perceived or regarded by Defendants as having a disability that substantially limited him in one or more of his major life activities.

68. Under Michigan's PWDCRA, Defendants were legally obligated to refrain from discriminating against Aye^sr because of his disability or because Defendants regarded or perceived Ayers has having a disability.

69. Ayers's autism spectrum disorder is a disability for purposes of the PWDCRA because it causes Ayers to be substantially limited in major life activities, including but not limited to: cognition, comprehension, learning, thinking, speaking, communicating and social interaction.

70. Notwithstanding his disability, Ayers was fully qualified for the position he sought with Defendants, with or without reasonable accommodation.

71. Notwithstanding its obligations under the PWDCRA, and in willful violation thereof, Defendants discriminated against Ayers because of disability by:

- a. Cancelling his employment interview because of his disability, record of disability or because it perceived Ayers as disabled;
- b. Failing to furnish reasonable accommodations for Ayers's disability;
- c. Failing to engage in a meaningful interactive process to determine how to accommodate Ayers's disability relative to the needs of the position he sought; and
- d. Pressing criminal charges against Ayers because of his disability or perceived disability.

72. Ayers's disability, or Defendants' perception of Ayers's disability, was the but-for cause of these adverse employment actions.

73. Ayers's disability or Defendants' perception of his disability had a determinative influence on the outcome of his application for employment.

74. Henderson, with knowledge that Ayers was disabled, or perceiving or regarding Ayers as disabled, acted with a discriminatory bias based on Ayers's actual or perceived disability to cause Enviro-Clean to cancel Ayers's interview and deny Ayers an employment opportunity.

75. Henderson's actions were a proximate cause of the ultimate employment action, thus making Enviro-Clean liable for Henderson's actions.

76. Henderson's discriminatory actions had a direct relation to the ultimate action of cancelling Ayers's interview and denying Ayers employment opportunity with Defendants.

77. But-for these discriminatory actions based on disability, perceived disability, or record of disability, Ayers would have successfully obtained employment with Defendants.


78. As a direct result of the adverse treatment experienced in connection with the foregoing, Ayers has experienced and will continue to experience economic damages, including lost wages and benefits, and other forms of economic and non-economic damages including emotional distress, anguish and pain and suffering.

RELIEF REQUESTED

79. Based on the violations of the ADA and Michigan's PWDCRA alleged above, Ayers requests the following relief:

- a. Equitable relief including instatement/reinstatement to the position he sought, or to a comparable position, in order to make him whole;
- b. Front pay in lieu of reinstatement;
- c. Compensation in the form of all lost wages, benefits, and other forms of compensation, both economic and non-economic, past and future, resulting from the discriminatory treatment described in this Complaint;
- d. Punitive Damages;
- e. Costs, interest, and attorney fees; and
- f. All other relief as the Court deems just and equitable.

Respectfully Submitted,


Dane Ayers
936 Amenia Street
Wolverine Lake, MI 48390


248-896-2438
Pro Se

Date: January 30, 2019

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial as to all causes of actions alleged in his Complaint.

Respectfully Submitted,


Dane Ayers
936 Amenia Street
Wolverine Lake, MI 48390
248-896-2438
Pro Se

Date: January 30, 2019

NOTICE OF LIMITED SCOPE ASSISTANCE

This document was drafted or partially drafted with the assistance of a lawyer licensed to practice in the State of Michigan, pursuant to MRPC 1.2(b). This document was prepared with the assistance of the Detroit Mercy Law Pro Se Legal Assistance Clinic, Theodore Levin U.S. Courthouse, Room 1044, 231 W. Lafayette Blvd., Detroit, MI 48226, Tel: 313-234-2690.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the information provided by local rules of court. This form, approved by the Judicial Conference of the United States, is for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Dane Ayers

(b) County of Residence of First Listed Plaintiff Oakland
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro-SE
936 Armenia
Wolverine Lake, Mi 48390 284 896-2438

DEF
Envir

Andrew J. VanBronkhorst
Hewson & Van Hellemont, P.C.
625 Kenmoor Ave., SE
Ste. 304
Grand Rapids, MI 49546

County of Residence of First Listed Defendant Oakland
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
IMMIGRATION				
<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions				

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

1/30/19

Dane Ayers

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
